

EHB 1069 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that tax
4 preferences are enacted to meet objectives which are determined to be
5 in the public interest. However, some tax preferences may not be
6 efficient or equitable tools for the achievement of current public
7 policy objectives. Given the changing nature of the economy and tax
8 structures of other states, the legislature finds that periodic
9 performance audits of tax preferences are needed to determine if their
10 continued existence will serve the public interest.

11 NEW SECTION. **Sec. 2.** As used in this chapter, "tax preference"
12 means an exemption, exclusion, or deduction from the base of a state
13 tax; a credit against a state tax; a deferral of a state tax; or a
14 preferential state tax rate.

15 NEW SECTION. **Sec. 3.** (1) The citizen commission for performance
16 measurement of tax preferences is created.

17 (2) The commission has seven members as follows:

18 (a) One member is the state auditor, who is a nonvoting member;

19 (b) One member is the chair of the joint legislative audit and
20 review committee, who is a nonvoting member;

21 (c) The chair of each of the two largest caucuses of the senate and
22 the two largest caucuses of the house of representatives shall each
23 appoint a member. None of these appointees may be members of the
24 legislature; and

25 (d) The governor shall select the seventh member.

26 (3) Persons appointed by the caucus chairs should be individuals
27 who represent a balance of perspectives and constituencies, and have a
28 basic understanding of state tax policy, government operations, and

1 public services. These appointees should have knowledge and expertise
2 in performance management, fiscal analysis, strategic planning,
3 economic development, performance assessments, or closely related
4 fields.

5 (4) The commission shall elect a chair from among its voting or
6 nonvoting members. Decisions of the commission must be made using the
7 sufficient consensus model. For the purposes of this subsection,
8 "sufficient consensus" means the point at which the vast majority of
9 the commission favors taking a particular action. If the commission
10 determines that sufficient consensus cannot be reached, a vote must be
11 taken. The commission must allow a minority report to be included with
12 a decision of the commission, if requested by a member of the
13 commission.

14 (5) Members serve for terms of four years, with the terms expiring
15 on June 30th on the fourth year of the term. However, in the case of
16 the initial terms, the members appointed by the chairs of senate
17 caucuses shall serve four-year terms, the members appointed by the
18 chairs of house of representatives caucuses shall serve three-year
19 terms, and the member appointed by the governor shall serve a two-year
20 term, with each of the terms expiring on June 30th of the applicable
21 year. Appointees may be reappointed to serve more than one term.

22 (6) The joint legislative audit and review committee shall provide
23 clerical, technical, and management personnel to the commission to
24 serve as the commission's staff. The department of revenue shall
25 provide necessary support and information to the joint legislative
26 audit and review committee.

27 (7) The commission shall meet at least once a quarter and may hold
28 additional meetings at the call of the chair or by a majority vote of
29 the members of the commission. The members of the commission shall be
30 compensated in accordance with RCW 43.03.220 and reimbursed for travel
31 expenses in accordance with RCW 43.03.050 and 43.03.060.

32 NEW SECTION. **Sec. 4.** (1) The citizen commission for performance
33 measurement of tax preferences shall develop a schedule to accomplish
34 an orderly review of tax preferences at least once every ten years.
35 The commission shall schedule tax preferences for review in the order
36 the tax preferences were enacted into law, except that the commission
37 may elect to include, anywhere in the schedule, a tax preference that

1 has a statutory expiration date. The commission shall omit from the
2 schedule tax preferences that are required by constitutional law, sales
3 and use tax exemptions for machinery and equipment for manufacturing,
4 research and development, or testing, the small business credit for the
5 business and occupation tax, tax preferences applicable to not-for-
6 profit cooperatives chartered under chapter 31.12 RCW, sales and use
7 tax exemptions for food and prescription drugs, property tax relief for
8 retired persons, and property tax valuations based on current use, and
9 may omit any tax preference that the commission determines is a
10 critical part of the structure of the tax system. As an alternative to
11 the process under section 5 of this act, the commission may recommend
12 to the joint legislative audit and review committee an expedited review
13 process for any tax preference that has an estimated biennial fiscal
14 impact of ten million dollars or less.

15 (2) The commission shall revise the schedule as needed each year,
16 taking into account newly enacted or terminated tax preferences. The
17 commission shall deliver the schedule to the joint legislative audit
18 and review committee by September 1st of each year.

19 (3) The commission shall provide a process for effective citizen
20 input during its deliberations.

21 NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review
22 committee shall review tax preferences according to the schedule
23 developed under section 4 of this act. The committee shall consider,
24 but not be limited to, the following factors in the review:

25 (a) The classes of individuals, types of organizations, or types of
26 industries whose state tax liabilities are directly affected by the tax
27 preference;

28 (b) Public policy objectives that might provide a justification for
29 the tax preference, including but not limited to the legislative
30 history, any legislative intent, or the extent to which the tax
31 preference encourages business growth or relocation into this state,
32 promotes growth or retention of high wage jobs, or helps stabilize
33 communities;

34 (c) Evidence that the existence of the tax preference has
35 contributed to the achievement of any of the public policy objectives;

36 (d) The extent to which continuation of the tax preference might
37 contribute to any of the public policy objectives;

1 (e) The extent to which the tax preference may provide unintended
2 benefits to an individual, organization, or industry other than those
3 the legislature intended;

4 (f) The extent to which terminating the tax preference may have
5 negative effects on the category of taxpayers that currently benefit
6 from the tax preference, and the extent to which resulting higher taxes
7 may have negative effects on employment and the economy;

8 (g) The feasibility of modifying the tax preference to provide for
9 adjustment or recapture of the tax benefits of the tax preference if
10 the objectives are not fulfilled;

11 (h) Fiscal impacts of the tax preference, including past impacts
12 and expected future impacts if it is continued. For the purposes of
13 this subsection, "fiscal impact" includes an analysis of the general
14 effects of the tax preference on the overall state economy, including,
15 but not limited to, the effects of the tax preference on the
16 consumption and expenditures of persons and businesses within the
17 state;

18 (i) The extent to which termination of the tax preference would
19 affect the distribution of liability for payment of state taxes;

20 (j) Consideration of similar tax preferences adopted in other
21 states, and potential public policy benefits that might be gained by
22 incorporating corresponding provisions in Washington.

23 (2) For each tax preference, the committee shall provide a
24 recommendation as to whether the tax preference should be continued
25 without modification, modified, scheduled for sunset review at a future
26 date, or terminated immediately. The committee may recommend
27 accountability standards for the future review of a tax preference.

28 NEW SECTION. **Sec. 6.** (1) The joint legislative audit and review
29 committee shall report its findings and recommendations for scheduled
30 tax preferences to the citizen commission for performance measurement
31 of tax preferences by August 30th of each year. The commission may
32 review and comment on the report of the committee. The committee may
33 revise its report based on the comments of the commission. The
34 committee shall prepare a final report that includes the comments of
35 the commission and submit the final report to the finance committee of
36 the house of representatives and the ways and means committee of the
37 senate by December 30th.

1 (2) The joint legislative audit and review committee shall submit
2 a special report reviewing all tax preferences that have statutory
3 expiration dates between June 30, 2006, and January 1, 2008. For the
4 special report, the committee shall complete a review under section 5
5 of this act, and obtain comments of the citizen commission for
6 performance measurement of tax preferences under subsection (1) of this
7 section, to the extent possible. The committee shall submit the
8 special report to the finance committee of the house of representatives
9 and the ways and means committee of the senate by January 12, 2007.

10 (3) Following receipt of a report under this section, the finance
11 committee of the house of representatives and the ways and means
12 committee of the senate shall jointly hold a public hearing to consider
13 the final report and any related data.

14 NEW SECTION. **Sec. 7.** Upon request of the citizen commission for
15 performance measurement of tax preferences or the joint legislative
16 audit and review committee, the department of revenue and the
17 department of employment security shall provide information needed by
18 the commission or committee to meet its responsibilities under this
19 chapter.

20 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
21 repealed:

22 (1) RCW 43.136.010 (Legislative findings--Intent) and 1982 1st
23 ex.s. c 35 s 39;

24 (2) RCW 43.136.020 ("Tax preference" defined) and 1982 1st ex.s. c
25 35 s 40;

26 (3) RCW 43.136.030 (Legislative budget committee and department of
27 revenue--Review of tax preferences--Reports) and 1982 1st ex.s. c 35 s
28 41;

29 (4) RCW 43.136.040 (Legislative budget committee review of tax
30 preferences--Factors for consideration) and 1982 1st ex.s. c 35 s 42;

31 (5) RCW 43.136.050 (Powers and duties of ways and means committees)
32 and 1982 1st ex.s. c 35 s 43; and

33 (6) RCW 43.136.070 (Report on existing tax preferences to be
34 provided--Additional information to be provided) and 1982 1st ex.s. c
35 35 s 45.

1 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are each
2 added to chapter 43.136 RCW."

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3 On page 1, line 1 of the title, after "preferences;" strike the
4 remainder of the title and insert "adding new sections to chapter
5 43.136 RCW; and repealing RCW 43.136.010, 43.136.020, 43.136.030,
6 43.136.040, 43.136.050, and 43.136.070."

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